

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
PATENT EXAMINING OPERATION

In re Application of: Cesar Z. Lina § Atty. Docket No.: PUL.504E  
[KCIA,012]  
Serial No.: 09/432,904 § Group Art Unit: 3764  
Filed: November 2, 1999 § Examiner: D.D. DeMille  
For: **FOOT MOUNTED** §  
**VENOUS COMPRESSION** §  
**DEVICE** §

COMMISSIONER OF PATENTS  
AND TRADEMARKS  
WASHINGTON, D.C. 20231

**CERTIFICATE OF FACSIMILE TRANSMISSION**Date of Transmission: March 25, 2003

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown above to (703) 305-3579.

*Mark R. Wisner*  
Mark R. Wisner, Registration No. 30,603

**RESPONSE TO NOTICE OF IMPROPER  
REQUEST FOR CONTINUED EXAMINATION (RCE)**

Dear Sir:

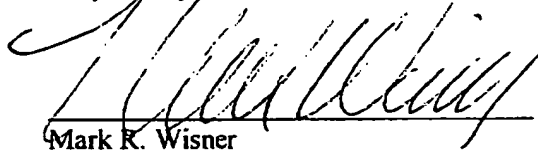
Applicant responds to the Notice of Improper Request for Continued Examination (Form PTO-2061) mailed in the captioned application on February 12, 2003 as follows. Although it is not expected that there is a charge for filing this Response, in the event a fee is assessed, the Commissioner is authorized to charge the deposit account of Wisner & Associates, Deposit Account No. 50-0965 (KCIA,012) in the amount of any such fee.

The Notice of Improper RCE lists the failure to enclose the required fee as the reason for the Notice. A copy of Applicant's Request for Continued Examination (RCE) Transmittal as filed (with a certificate of mailing executed on January 29, 2003) is enclosed (also enclosed is the required copy of the Form PTO-2061). Although paragraph 3(b) of the Request for Continued Examination is checked to indicate that a check for \$750.000 was enclosed, upon a review of the file, it does appear that the below-signed Attorney for Applicant overlooked including the check for the required fee when the Request for Continued Examination was mailed. However, it will be apparent from a review of the Request for Continued Examination that paragraph 3(a) of the Request authorized the charge of any fee deficiency to Deposit Account No. 50-0965. It is therefore respectfully submitted that Applicant's Request for Continued Examination was proper in

that, even though it may not have enclosed a check in the amount of the required fee, it did include authorization to charge to a Deposit Account such that the fee **did** accompany Applicant's Request.

Reconsideration and withdrawal of the Notice of Improper Request for Continued Examination (RCE) is therefore respectfully requested. In the event there are questions, please contact the undersigned Attorney for Applicant at the address and telephone number set out below.

Respectfully submitted,



Mark R. Wisner

Registration No. 30,603

Wisner & Associates

2925 Briarpark, Suite 930

Houston, TX 77042-3728

Telephone: (713) 785-0555

Facsimile: (713) 785-0561

ATTORNEY FOR APPLICANT

Date: March 25, 2003

**COPY**

PTO/SB/30 (08-00)  
 Approved for use through 10/31/2002. OMB 0651-0031  
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# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000,  
 provides for continued examination of an utility or plant application  
 filed on or after June 8, 1995.

See The American Inventors Protection Act of 1999 (AIPA).

Application Number	09/432,904
Filing Date	November 2, 1999
First Named Inventor	Lina
Group Art Unit	3764
Examiner Name	D. DeMille
Attorney Docket Number	PUL.504E

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.

**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.53 (d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

## 1. Submission required under 37 C.F.R. § 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
 (Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

## 2. Miscellaneous

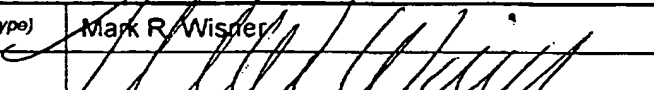
- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months, Fee under 37 C.F.R. § 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

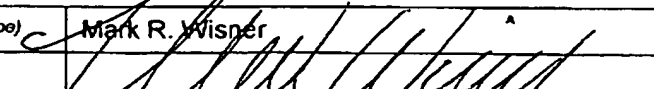
- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 50-0965 (KCIA,012)
- i. ☐ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☒ Other: any deficiency in the enclosed check and/or any fee for an extension of time necessary to insure consideration of the enclosed amendment/reply.
- b. ☒ Check in the amount of \$750.00 enclosed.
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)	Mark R. Wisner	Registration No. (Attorney/Agent)	30,603
Signature		Date	January 29, 2003

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on:

Name (Print/Type)	Mark R. Wisner	Date	January 29, 2003
Signature			

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Assistant Commissioner for Patents, Box RCE, Washington, DC 20231.

02/24/03 13:40

KCI-FACTORYING → 713 785 0561

ND.011 P003



United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

**COPY**

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 2-6-03 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application in which the Office has not mailed at least one of an Office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☒ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the Office action or notice of allowance continues to run from the mailing date of that action or notice.

**A copy of this notice MUST be returned with any reply.**

Direct the reply and any questions about this notice to:

Macie Hargreaves Examining Group 3700

(703) 30 5-3453

**WISNER & ASSOCIATES**

2925 Briarpark, Suite 930  
Houston, Texas 77042

**INTELLECTUAL PROPERTY LAW****Mark R. Wisner\***

OF COUNSEL:

Malcolm H. Skolnick, Ph.D.  
N. Elton Dry

\* A Professional Corporation

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**FACSIMILE COVER SHEET**

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<b>DATE:</b>	March 25, 2003	<b>OUR REFERENCE:</b>	KCIA,012
<b>TO:</b>	Commissioner of Patents Attn: Tracie Hargrove	<b>YOUR REFERENCE:</b>	Ser. No. 09/432,904
<b>FAX NO.:</b>	(703) 305-3579	<b>TOTAL PAGES</b> (including this cover sheet):	5
<b>FROM:</b>	Mark R. Wisner		

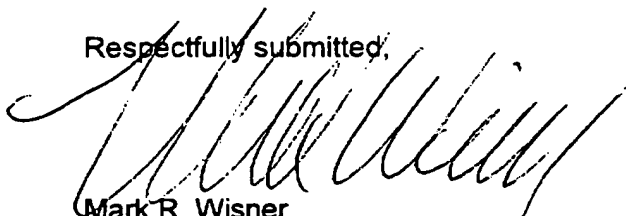
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**MESSAGE:**

Ms. Hargrove:

As per our telephone conversation on March 25, 2003.

Respectfully submitted,



Mark R. Wisner  
Registration No. 30,603  
Wisner & Associates  
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Facsimile: (713) 785-0561  
ATTORNEY FOR APPLICANT

**FAX RECEIVED**  
**MAR 25 2003**  
**GROUP 3700**

If you do not receive all pages or if pages are not legible,  
please contact LeAnne at 713.785.0555

Original and Any Enclosures

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